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15 UNITED STATES DISTRICT COURT
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17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
18
19 OAKLAND DIVISION

20 EPIC GAMES, INC.,
21 Plaintiff, Counter-defendant
22 v.
23 APPLE INC.,
24 Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR
Case No. 4:11-cv-06714-YGR
Case No. 4:19-cv-03074-YGR

25 IN RE APPLE IPHONE ANTITRUST
26 LITIGATION

27
28 **DECLARATION OF ETHAN D. DETTMER
IN SUPPORT OF DEFENDANT APPLE
INC.'S STATEMENT IN RESPONSE TO
ORDER TENTATIVELY DENYING
ADMINISTRATIVE MOTION TO MODIFY
CASE SCHEDULE [DKT. 330]**

DONALD R. CAMERON, *et al.*,
Plaintiffs
v.
APPLE INC.,
Defendant.

Hon. Yvonne Gonzalez Rogers

1 I, Ethan D. Dettmer, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Gibson, Dunn & Crutcher LLP, counsel of record for
4 Defendant Apple Inc. (“Apple”) in this case. Except where otherwise stated, I have personal
5 knowledge of the facts stated below and, if called as a witness, I could and would testify competently
6 thereto. I submit this declaration in support of Apple’s Statement in Response to Order Tentatively
7 Denying Administrative Motion to Modify Case Schedule.

8 2. Apple has consistently informed class plaintiffs that preparing the requested
9 transactional data is an extremely complex undertaking that cannot be expedited due to engineering
10 requirements and technological processing constraints. Indeed, Apple long ago informed class
11 plaintiffs that it would take multiple weeks to produce the transactional data and that each new request
12 class plaintiffs made would increase the time it would take to complete production.

13 3. On August 4, 2020, Eli Lazarus, my co-counsel in this case, sent an email to Rachele
14 Byrd and Ted Wojcik, counsel for the consumer plaintiffs and developer plaintiffs respectively, and to
15 their colleagues, explaining that producing the transactional data as requested will take significant
16 efforts, that Apple continues to investigate how to produce the data in accordance with plaintiffs’
17 requests in light of the constraints, and that difficulties created by the pandemic exacerbate the situation.
18 A true and correct copy of this letter is attached hereto as **Exhibit 1**.

19 4. On August 5, 2020, Mr. Lazarus sent an email to Ms. Byrd, Mr. Wojcik, and their
20 colleagues, explaining that while Apple is able to produce the materials in relational tables “the
21 processing and analysis time will likely be greater.” A true and correct copy of this letter is attached
22 hereto as **Exhibit 2**.

23 5. On August 7, 2020, my colleagues and I attended a telephonic meet and confer with
24 counsel for consumer plaintiffs and developer plaintiffs. On that call Apple explained it would take at
25 least two weeks to produce the data as a relational table.

26 6. On August 14, 2020, Mr. Lazarus sent an email to Ms. Byrd, Mr. Wojcik, and their
27 colleagues, again explaining that it would take at least two weeks to produce the data as a relational
28 table. A true and correct copy of this letter is attached hereto as **Exhibit 3**.

1 7. On August 24, 2020, Mr. Lazarus sent an email to Ms. Byrd, Mr. Wojcik, and their
 2 colleagues, again explaining the burden of extracting and organizing the large volume of data. A true
 3 and correct copy of this letter is attached hereto as **Exhibit 4**.

4 8. On September 10, 2020, Mr. Lazarus sent an email to Ms. Byrd, Mr. Wojcik, and their
 5 colleagues, explaining that additional requests increase the time to complete the full production. A true
 6 and correct copy of this letter is attached hereto as **Exhibit 5**.

7 9. On October 12, 2020, Mr. Lazarus sent a letter to Ms. Byrd and Mr. Wojcik, addressing
 8 their concerns regarding data discovery and again explaining that additional requests increase the time
 9 to complete the production. A true and correct copy of this letter is attached hereto as **Exhibit 6**.

10 10. On October 23, 2020, Mr. Lazarus sent a letter to Ms. Byrd and Mr. Wojcik, addressing
 11 their concerns regarding data discovery and again explaining that additional requests increase the time
 12 to complete the production. A true and correct copy of this letter is attached hereto as **Exhibit 7**.

13 11. On October 27, 2020, I sent a letter to Robert Lopez, counsel for the developer plaintiffs,
 14 and to Ms. Byrd, explaining that Apple is prepared to produce the transactional data but that the
 15 production is a significant undertaking. A true and correct copy of this letter is attached hereto as
 16 **Exhibit 8**.

17 12. On November 2, 2020, I sent a letter to Ben Siegel, counsel for the developer plaintiffs,
 18 and to Ms. Byrd, addressing their concerns regarding the production of transactional data and
 19 explaining that each of plaintiffs' additional demands increase the time to complete the full production.
 20 A true and correct copy of this letter is attached hereto as **Exhibit 9**.

21 13. On November 6, 2020, Mr. Lazarus sent a letter to Ms. Byrd and Mr. Wojcik, explaining
 22 that plaintiffs' expectation ignores the necessary effort required by Apple to make the production. A
 23 true and correct copy of this letter is attached hereto as **Exhibit 10**.

24 14. On December 10, 2020, Mr. Lazarus sent an email to Mr. Siegel, Mr. Wojcik, and
 25 Ms. Moskowitz, counsel for Epic Games, Inc., and their respective colleagues, stating that “[b]ecause
 26 Apple [] agreed to certain of plaintiffs' demands to include additional fields, assembling the final data
 27 set will require some additional time.” A true and correct copy of this letter is attached hereto as
 28 **Exhibit 11**.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is true
2 and correct and that this Declaration was executed on December 30, 2020, at Coronado, California.
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5 */s/ Ethan D. Dettmer*
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7 Ethan D. Dettmer
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